



City of Austin

Neighborhood Housing and Community Development

P.O. Box 1088, Austin, TX 78767-1088

(512) 974-3100 • Fax (512) 974-3112 • www.cityofaustin.org/housing

DATE: October 11, 2017

TO: Mayor Adler and Council Members

FROM: Rosie Truelove, Neighborhood Housing and Community Development
Director

SUBJECT: Follow-up Information on Resolution No. 20170615-067

On June 15, 2017, Council approved Resolution No. 20170615-067 which directed the City Manager to provide information on current rental rates and median family income levels of households currently living at a property for which private activity bonds are intended to be used for acquisition and rehabilitation.

As you may recall, the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 requires that the unit of local government give its consent for bonds to be issued for an existing or proposed new development within its jurisdiction. The Private Activity Bond Issuer is required to provide proof that the public was notified of a public hearing regarding the issuance of the bonds and that the public hearing was conducted no fewer than 14 days after the date the notice was published.

NHCD Staff has incorporated into its review process for TEFRA Approval requests the requirements to obtain a current rent roll, listing the amount of rent each household is paying and the annual income of each household expressed as a percentage of Median Family Income. Personally identifying information will not be included. The revised form for requesting resolutions from Council is attached, and the text incorporating the requirements of the resolution on that form is in red type.

The resolution also directed the City Manager to research and report back on the ability of the City to include in the TEFRA approval process protections for existing residents from displacement.

Staff research concluded that for existing tenants with valid leases in effect, the Texas Property Code and the Internal Revenue Code (for properties that will be income-restricted through the use of Low Income Housing Tax Credits and private activity bonds) provide sufficient tenant protections from displacement.

For income-restricted units, leases cannot be terminated or non-renewed without cause. If there is a change in ownership, the Texas Property Code requires the new owner to honor the existing lease and any other written agreements made with the original owner or management.

Prior to the expiration of an existing lease, the new owner of an income-restricted property would be obligated to verify the tenant's household income and may need to adjust the rent accordingly so long as the rent amount does not exceed the allowable limits.

For tenants without leases and those with month-to-month leases, there appear to be no protections from displacement unless the property becomes income-restricted. At that point, all tenants wishing to stay would be required to sign leases and have their incomes verified by the new owner.

Staff is continuing to explore the possibility of additional tenant protections for properties participating in the Low-Income Housing Tax Credit program, pursuant to Council Resolution No. 20170803-057.

I hope this information is helpful. If you have any questions, please feel free to contact David Potter, Housing Development Program Manager at 512-974-3192 or david.potter@austintexas.gov.

cc: Elaine Hart, Interim City Manager
Joe Pantalion, Interim Assistant City Manager

Attachments: Resolution No. 20170615-067
Request for City of Austin Resolutions

REQUEST FOR CITY OF AUSTIN RESOLUTIONS

2017 4% NON-COMPETITIVE LOW INCOME HOUSING TAX CREDITS

This sheet provides a guide for developers requesting resolutions required by the Texas Department of Housing and Community Affairs for 4% Low Income Housing Tax Credit applications.

PLEASE NOTE: If you are requesting funding from the City, please complete a Rental Housing Development Assistance (RHDA) program application. The RHDA program application can be found at: <http://austintexas.gov/page/housing-application-center>.

Please indicate which resolutions are being requested by the City of Austin.

- ☒ Twice the State Average Per Capita (Required as of August 2017)
- ☐ One-Mile, Three-Year Rule
- ☐ Limitations on Developments in Certain Census Tracts
- ☐ A Resolution of No Objection from the Local Governing Body (*Public Hearing Required*)
- ☐ TEFRA Approval (See below for requirements for existing, occupied properties.)

Please note:

1) TEFRA Approval for bonds to be issued on existing, occupied developments must meet the requirements of Austin City Council Resolution No. 20170615-067 by providing:

A) A current rent roll –with personal identifying information redacted – indicating:

- i) The current rents being charged each household;*
- ii) The income level of each household expressed as a percentage of Median Family Income based on the number of occupants; and*
- iii) Lease expiration dates.*

B) A temporary relocation plan for existing residents during the period of rehabilitation.

2) All resolutions being requested are subject to approval by the Austin City Council.

For the request to be considered, the following information will be required.

- 1) Name of the Proposed Development
- 2) The address/location of the proposed development
- 3) City Council District Number
- 4) Census Tract Number
- 5) Indicate the type of Development (New Construction, Rehabilitation, Acquisition/Rehabilitation, Replacement)
- 6) SMART Housing Certification letter
- 7) A map (8 ½" x 11") indicating the property location and the distance to the nearest Capital Metro Transit Stop to which residents will have access.
- 8) A corresponding map of transit stops showing the distance a resident would actually have to walk on a paved surface to get to the nearest transit stop
- 9) A flood plain map generated by www.ATXFloodPro.com with the property parcel identified and the legend displayed showing the various types of FEMA Flood Plain zones.
- 10) Provide a table of proposed Sources and Uses for the project. It should contain all proposed funding sources, including the amount of tax credits to be requested from TDHCA and the amount of Private Activity Bonds to be issued and the Issuer name.
- 11) Number of Units proposed by type (i.e. Single Room Occupancy, 1BR, 2BR, 3BR, etc.)
- 12) Approximate Size of Units in square feet.
- 13) Number and percentage of units by Median Family Income level.
- 14) Estimated Rents by unit size/type.

- 15) Number and percentage of units dedicated for tenants with Special Housing Needs, if any. Specify the type of special needs to be served.
- 16) Specify Resident Services, if any, intended to be provided to tenants.
- 17) Provide information about on-site amenities intended, if any (e.g. recreation facilities, computer lab, Wi-Fi). Please be as specific as possible.
- 18) Provide Developer's Experience and Development Background for past 10 years. Provide the names of Development Team Members expected to be involved in the proposed project (architect, general contractor, etc.)

Requests should be submitted to Neighborhood Housing and Community Development, 1000 East 11th Street, 2nd Floor, Austin, TX 78702 to the attention of Ellis Morgan. E-mail submissions are acceptable as long as they are within the size limit of the City's e-mail system for attachments (approximately 15MB). For more information, contact Ellis Morgan at 512-974-3121 or by e-mail at ellis.morgan@austintexas.gov.

I certify that, to the best of my knowledge the information provided is true and correct.

Authorized Representative _____ Date _____

RESOLUTION NO. 20170615-067

WHEREAS, the Tax Equity and Fiscal Responsibility Act (TEFRA) in 26 U.S. Code Section 147 requires public notice, a public hearing, and approval from the local governing jurisdiction where a qualified residential rental project will be situated (TEFRA Approval) in order to issue private activity bonds, including qualified residential rental projects to acquire and rehabilitate existing residential structures, to a borrower; and

WHEREAS, these types of bonds are typically used to acquire and rehabilitate existing residential structures; and

WHEREAS, approving the issuance of these bonds does not constitute any obligation of the City in regard to the repayment of the bonds, nor does it constitute any zoning approval, approval of any building permit, or any other approval required by the City in regard to the development in question; and

WHEREAS, when these TEFRA Approvals come to City Council, the information provided to Council typically includes information about the borrower, the project's potential development characteristics, as well as the estimated median family incomes for the future population served; and

WHEREAS, the information provided to Council does not provide information about the existing median family income of the development's current households, nor does it provide information about the building's current occupancy; and

WHEREAS, typically when private activity bonds for qualified residential rental projects to acquire and rehabilitate existing residential structures are issued the transaction documents do not contain any policies or regulations that provide

legal protection to existing residents from the displacement that may occur due to the acquisition and rehabilitation of the property; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

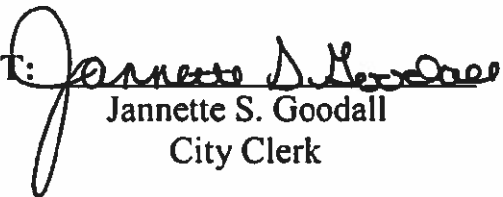
When the City Council is requested to approve or disapprove the issuance of private activity bonds for qualified residential rental projects to acquire and rehabilitate existing residential structures, the City Council directs the City Manager to provide information to the Council regarding existing rental prices and the median family income of households currently living at the property in which the bonds are intended to be utilized.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to research the ability of the City to include in the TEFRA Approval process protections for existing residents from displacement and report back to Council with recommendations within 90 days.

ADOPTED: June 15, 2017

ATTEST:


Jannette S. Goodall
City Clerk